

REMARKS

The Board in their decision reversed the Examiner's rejections of claims 1-35 under 35 U.S.C. §§101, 112, and 103 over various combinations of Vogel, Kirwin, Sposito and Official Notice.

However, the Board in its decision dated May 28, 2009, entered a new ground of rejection of claims 23-29 under 35 U.S.C. §101 as being directed to patent ineligible subject matter.

The Board relied on the holding in *Bilski* that: "the machine-or-transformation test, properly applied, is the governing test for determining patent eligibility of a process under §101." *In re Bilski*, 545 F.3d 943, 956 (Fed. Cir. 2008) (en banc), petition for cert. filed, 77 USLW 3442 (U.S. Jan. 28, 2009) (NO. 08-964). Relying on *Bilski*, the Board held with respect to claims 23-29 that: "The claims do not limit the process steps to any machine or apparatus. As such, the claims fail the first prong of the machine-or-transformation test because they are not tied to a particular machine or apparatus."

Applicant pursuant to 37 C.F.R. 5 41.50(b) elects to reopen prosecution with respect to the new ground of rejection to and has submitted herewith an appropriate amendment of claims 23-29.

Claim 23 has been amended to call for "A computer-implemented method for preventing the processing of suspect trades. In addition, Applicant has amended the claim to require that the features of monitoring a trade price and the feature of comparing the trade price are performed by a computer. Because the claim preamble and the elements of the claim are tied to a machine, to wit a computer, the claim is now clearly directed to statutory subject matter.

Applicant has also amended claims 25 and 28 to also include that adjusting the trade prices is performed by the computer.

Applicant contends that all rejections have been either reversed or overcome in the present application and this case is in condition for allowance. Applicant requests that the examiner allow the case at the examiner's earliest possible convenience.

Should the examiner feel that an interview is needed to hasten this case to allowance, the examiner can reach the undersigned at the number below.

No fee is due. Please apply any other charges or credits to deposit account 06-1050.

Respectfully submitted,

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